

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

E. K. WADE,

Plaintiff,

v.

HENRY J. KERNER,

Defendant.

No. 2:20-cv-1791-KJM-KJN PS

ORDER

(ECF Nos. 16, 17)

On October 21, 2020, the court issued findings and recommendations recommending that plaintiff's motion for preliminary injunction be denied, along with an order to show cause why this action should not be transferred to the District of Columbia where venue appears more proper. (ECF No. 16.) On October 22, 2020, plaintiff filed a motion to amend his complaint, noticed for a hearing on December 3, 2020, and separately filed a Second Amended Complaint. (ECF Nos. 17, 18.) A few days later, on October 26, 2020, plaintiff filed an identical Third Amended Complaint. (ECF No. 19.) In the motion to amend, plaintiff states that he "concurs with this Court that this complaint should be transferred to the District of Columbia." (ECF No. 17 at 2.)


The undersigned now issues this order to clarify the status of the case in an attempt to prevent further unnecessary expenditures of time and resources by plaintiff. The district court judge assigned to this case is still reviewing the findings and recommendations regarding

1 plaintiff's motion for preliminary injunction. Once that ruling has been received, the undersigned  
2 intends to transfer this case to the District of Columbia, which plaintiff agrees is the proper venue  
3 for this action. In the interim, it would be inappropriate for the undersigned to rule on substantive  
4 motions, such as plaintiff's recent motion to amend, because these matters are more properly left  
5 for a court of the transferee venue to decide, once transfer has taken place. Accordingly, the  
6 undersigned denies plaintiff's motion to amend, without prejudice to plaintiff re-filing that motion  
7 before the transferee court. Until a final ruling has been made on the motion for preliminary  
8 injunction, and the transfer ordered, plaintiff should refrain from filing further motions to amend  
9 as they will be summarily denied. Of course, plaintiff remains free to voluntarily dismiss this  
10 action, should he wish to simply re-file his suit in the District of Columbia rather than await  
11 resolution of the preliminary injunction motion.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. The court's October 21, 2020 order to show cause (ECF No. 16) is satisfied;
- 14 2. The hearing on plaintiff's motion to amend, noticed for December 3, 2020, is  
15 VACATED;
- 16 3. Plaintiff's motion to amend (ECF No. 17) is DENIED without prejudice to re-filing  
17 upon transfer to the District of Columbia; and
- 18 4. Plaintiff shall refrain from filing further amended complaints and motions to amend  
19 until a final order issues regarding plaintiff's motion for preliminary injunction.

20 Dated: November 8, 2020

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22 KENDALL J. NEWMAN  
23 UNITED STATES MAGISTRATE JUDGE

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